

**HDCV2015-00089****Anderson v Toyota Motor Corporation et al**

<b>File Date</b>	02/13/2015	<b>Status</b>	Disposed: transferred to other court (dtrans)
<b>Status Date</b>	05/19/2015	<b>Session</b>	B - Civil B - Ctrm 7
<b>Origin</b>	1 - Complaint	<b>Case Type</b>	B05 - Products liability
<b>Track</b>	A - Average track	<b>Lead Case</b>	<b>Jury Trial</b> Yes

**DEADLINES**

	Service	Answer	Rule12/19/20	Rule 15	Discovery	Rule 56	Final PTC	Judgment
<b>Served By</b>			06/13/2015	04/08/2016	02/02/2017	03/04/2017		
<b>Filed By</b>	05/14/2015	06/13/2015	07/13/2015	05/08/2016		04/03/2017		01/28/2018
<b>Heard By</b>			08/12/2015	05/08/2016			08/01/2017	

**PARTIES**

<b>Plaintiff</b> Michael E Anderson Active 02/13/2015	<b>Private Counsel 551180</b> John B Stewart Murphy & Manitsas 20 Maple Street Suite 301 Springfield, MA 01103-1951 Phone: 413-733-4402 Fax: 413-733-4403 Active 02/13/2015 Notify
<b>Defendant</b> Toyota Motor Corporation Service pending 02/13/2015	
<b>Defendant</b> Toyota Motor Sales (USA) Inc Served: 04/28/2015 Served (answr pending) 05/07/2015	

**ENTRIES**

Date	Paper	Text
02/13/2015	1.0	Complaint
02/13/2015		Origin 1, Type B05, Track A.
02/13/2015	2.0	Civil action cover sheet filed
05/07/2015	3.0	Affidavit of service with long-arm statute with proof of service on out of state defendant Toyota Motor Sales (USA) Inc
05/13/2015	4.0	Plaintiff Michael E Anderson's MOTION to enlarge time for service of process for additional 90 days
05/14/2015		Motion (P#4) ALLOWED (Bertha D. Josephson, Justice) Notices faxed 5/15/2015

Commonwealth of Massachusetts

HAMPDEN SUPERIOR COURT

Case Summary

Civil Docket

HDCV2015-00089

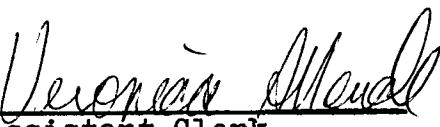
Anderson v Toyota Motor Corporation et al

Date	Paper	Text
05/19/2015	5.0	Case REMOVED this date to US District Court of Massachusetts

EVENTS

▲ true copy.

Attest:

  
Veronica Mandel  
Deputy Assistant Clerk

**Commonwealth of Massachusetts**

HAMPDEN, SS.

SUPERIOR COURT  
CIVIL ACTION NO. **15 089**

MICHAEL E. ANDERSON, )  
Plaintiff )  
 )  
v. )  
 )  
TOYOTA MOTOR CORPORATION, )  
and TOYOTA MOTOR SALES (USA), )  
INC., Defendants )

HAMPDEN COUNTY  
SUPERIOR COURT  
**FILED**

FEB 13 2015

  
CLERK OF COURTS

**PLAINTIFF'S COMPLAINT  
AND DEMAND FOR JURY TRIAL**

1. The plaintiff, MICHAEL E. ANDERSON, is a natural person residing at 17 Briarwood Avenue, Springfield, Massachusetts.

2. The Defendant, TOYOTA MOTOR CORPORATION, is a foreign corporation with a principal place of business at 1,Toyota-cho, Toyota City, Aichi Prefecture 471-8571, Japan, that manufacturers and designs automobiles that are marketed and distributed within Massachusetts and the United States through its agents and subsidiaries, *to wit*, the Defendant TOYOTA MOTOR SALES ( USA), INC..

3. The Defendant, TOYOTA MOTOR SALES (USA), INC., is and at all times material hereto was a manufacturer of automobiles, including the 2007 Toyota Matrix, in or about Japan and the United States and exported and distributed said automobiles to the United States for sale throughout the United States and more particularly a substantial number of sales in the Commonwealth of Massachusetts. The

No. of Plts. 1  
Fee Paid - \$ 240.00 Cash - Check  
Surcharge Paid - \$ 15.00 Cash - Check  
Security Fee - Paid - \$ 20.00 Cash - Check  
Received by SC

defendant has a principal place of business at 19001 South Western Avenue, Torrance, California 90501.

4. At all times material hereto, TOYOTA MOTOR CORPORATION and TOYOTA MOTOR SALES, USA, INC., and/or by or through their predecessors, subsidiaries, parent companies, employees and/or agents (hereinafter "TOYOTA"), were the designer(s), marketer(s), manufacturer(s) and distributor(s) of the Plaintiff's 2007 Toyota Matrix.

5. On or about March 1, 2012, the Plaintiff was operating his 2007 Toyota Matrix wearing his seat belt, on Breckwood Boulevard in Springfield, Massachusetts, when his vehicle was caused to skid off the slippery roadway due to the actions of another vehicle and skidded into a tree located on the tree belt.

6. The impact of the collision caused the Plaintiff's person to come into contact with the interior of the 2007 Matrix, resulting in serious injury to the Plaintiff.

7. At all times material hereto the 2007 Matrix operated by the Plaintiff was equipped with a driver's side airbag that failed to properly deploy in course of the collision severe impact damage to the front end of the vehicle with a fixed stationary object (tree) at approximately 16 miles per hour.

8. At all times material hereto the 2007 Matrix operated by the Plaintiff was equipped with a seatbelt that failed to prevent his person from coming into contact with the interior of the vehicle.

COUNT I  
(BREACH OF IMPLIED & EXPRESS  
WARRANTIES vs. TOYOTA)

9. The Plaintiff repeats the allegations contained in ¶¶ 1-8, supra, and incorporates the same herein.

10. At all times material hereto, TOYOTA was the designer, manufacturer, marketer and distributor of the subject 2007 Matrix and the component parts thereof.

11. At all times material hereto, the Plaintiff was a foreseeable user of the subject 2007 Matrix.

12. At the time the subject 2007 Matrix was designed, manufactured, marketed and distributed by TOYOTA, motor vehicle collisions such as the one alleged herein were reasonably foreseeable occurrences to TOYOTA.

13. At all times material hereto, TOYOTA implicitly warranted that the subject 2007 Matrix, and the component parts thereof, were of merchantable quality and fit for ordinary use.

14. At all times material hereto, TOYOTA expressly represented and warranted that the subject 2007 Matrix was equipped with a seatbelt to protect the safety of the operator, as well as a driver's side airbag(s) that would properly deploy in the event of a collision to protect the safety of the operator, and the Plaintiff relied on said representations and warranties in purchasing said 2007 Matrix.

15. At the time it was designed, manufactured, marketed and distributed by TOYOTA, the driver's side passenger restraint system, seatbelt and/or airbag(s) of the subject 2007 Matrix were defective and unreasonably dangerous, and therefore the 2007

Matrix was unfit for ordinary use in breach of the implied warranty of merchantability and the express warranties of TOYOTA.

16. At the time of the design and manufacturer of the subject 2007 Matrix, and at all times material hereto, the foreseeable risks of harm posed to the operator(s) of the subject 2007 Matrix could have been reduced and/or avoided by the adoption of reasonable alternative seatbelt and/or airbag(s) designs by TOYOTA.

17. As a result of the defectiveness of the subject 2007 Matrix and TOYOTA's breach of implied and express warranties, the Plaintiff was caused to sustain multiple trauma personal injuries, suffer significant physical, mental and emotional injuries, including cervical injuries requiring cervical discectomy surgery, sustained permanent loss of function, incurred medical expenses and loss of earning capacity and other general and special damages.

18. As a result of the defectiveness of the subject 2007 Matrix, the Plaintiff suffered injuries more serious than would have been the case had said motor vehicle been designed to be reasonably safe, of merchantable quality and fit for its ordinary uses.

COUNT II  
(NEGLIGENCE vs. TOYOTA)

19. The Plaintiff repeats the allegations contained in ¶¶ 1-18, supra, and incorporates the same herein.

20. At all times material hereto, TOYOTA owed a duty to exercise reasonable care in the manufacture and design of the subject 2007 Matrix to prevent injury to the foreseeable operator(s) of said vehicle.

21. At all times material hereto, TOYOTA owed a duty to adequately warn foreseeable users of the subject 2007 Matrix of any foreseeable harmful consequences that might occur as a result of the failure of the airbag(s) to properly deploy and/or the seatbelt(s) to restrain the operator under circumstances similar to the collision in the instant case.

22. TOYOTA breached these duties by carelessly and negligently designing the driver's side passenger restraint system, seatbelt and airbag(s) of the 2007 Matrix, and by failing to warn the plaintiff and/or other foreseeable users of the foreseeable dangers associated therewith, and the circumstances under which the airbag(s) would or would not properly deploy and/or the seatbelt would not restrain the operator.

23. TOYOTA's breach of said duties is a proximate cause or substantial factor in causing the Plaintiff's injuries.

#### PRAYER FOR RELIEF

WHEREFORE, the Plaintiff respectfully requests that this Court:

1. Enter judgment for the plaintiff on all counts of his Complaint;
2. Award the plaintiff damages as determined at trial, plus interest and costs as provided by law;
3. Grant the plaintiff such other relief as the court deems just and proper.

#### JURY DEMAND

The Plaintiff demands a jury trial on all issues so triable.

MICHAEL E. ANDERSON, Plaintiff

By Stephen W. Silverman  
STEPHEN W. SILVERMAN (BBO #463020)  
73 State Street  
Springfield, MA 01103  
Ph. (413) 788-6188  
Fax (413) 736-4968  
E-Mail: [swsilverlaw@verizon.net](mailto:swsilverlaw@verizon.net)

-- and --

By John B. Stewart  
JOHN B. STEWART (BBO #551180)  
MURPHY & MANITSAS, LLP  
20 Maple Street, Suite 301  
Springfield, MA 01103  
Ph. (413) 733-4402 x 105  
Fax: 413-733-4403  
E-Mail: [TheTrialer@aol.com](mailto:TheTrialer@aol.com)

A true copy.

Attest:

Veronica Wende  
Deputy Assistant Clerk

<b>CIVIL ACTION COVER SHEET</b>		TRIAL COURT OF MASSACHUSETTS SUPERIOR COURT DEPARTMENT	DOCKET NO. <b>15 089</b>
		COUNTY OF	
<b>PLAINTIFF(S)</b>  MICHAEL E. ANDERSON		<b>DEFENDANT(S)</b>  TOYOTA MOTOR CORPORATION, and TOYOTA MOTOR SALES (USA), INC.	

Plaintiff Atty	(1) STEVEN W. SILVERMAN (2) JOHN B. STEWART		HAMPDEN COUNTY SUPERIOR COURT FILED
Address	(1) 73 STATE ST. (2) 20 MAPLE ST., #301		FEB 13 2015
City	SPRINGFIELD	State MA	Zip Code 01103
Tel.	(1) 413 788 6188 (2) 413 733 4402 X105	BBO#	(1) 463020 (2) 551180

<b>TYPE OF ACTION AND TRACK DESIGNATION (See reverse side)</b>		
<b>CODE NO.</b>	<b>TYPE OF ACTION (specify)</b>	<b>TRACK</b>
B05	PRODUCTS LIABILITY - PERSONAL INJURY	AVERAGE TRACK
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		

The following is a full, itemized and detailed statement of the facts on which plaintiff relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

<b>TORT CLAIMS</b> (Attach additional sheets as necessary)	
A. Documented medical expenses to date:	\$ EXCEED \$100,000.00
1. Total hospital expenses	\$
2. Total doctor expenses	\$
3. Total chiropractic expenses	\$
4. Total physical therapy expenses	\$
5. Total other expenses (describe)	\$
Subtotal \$ APPROX. 25,000.00	
B. Documented lost wages and compensation to date	\$
C. Documented property damages to date	\$
D. Reasonably anticipated future medical expenses	\$
E. Reasonably anticipated lost wages and compensation to date	\$
F. Other documented items of damages (describe)	\$ 125,000.00+
G. Brief description of plaintiff's injury, including nature and extent of injury (describe)	
PLAINTIFF SUFFERED MULTIPLE TRAUMATIC INJURIES, AND UNDERWENT SPINAL SURGERY AND LENGTHY REHABILITATION, STILL LEFT WITH PERMANENT IMPAIRMENT DUE TO ACCIDENT	
Total \$ \$500,000.00+	

<b>CONTRACT CLAIMS</b> (Attach additional sheets as necessary)	
Provide a detailed description of claim(s):  <div style="border: 1px solid black; height: 40px; width: 100%;"></div>	
TOTAL \$.....	

PLEASE IDENTIFY, BY CASE NUMBER, NAME AND COUNTY, ANY RELATED ACTION PENDING IN THE SUPERIOR COURT DEPARTMENT

NOT APPLICABLE

"I hereby certify that I have complied with the requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about dispute resolution services and discuss with them the advantages and disadvantages of the various methods."

Signature of Attorney of Record John B. Stewart  
A.O.S.C. 3-2007

Date: FEBRUARY 11, 2015

Veronica Blodgett  
Deputy Assistant Clerk

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, SS.

SUPERIOR COURT  
CIVIL ACTION NO. 15-89

MICHAEL E. ANDERSON, Plaintiff )  
 )  
 )  
 )  
 v. )  
 )  
 )  
 TOYOTA MOTOR SALES USA, INC., et al., )  
 Defendants )

HAMPDEN COUNTY  
SUPERIOR COURT  
FILED  
MAY - 7 2015  
*John B. Stewart*  
CLERK OF COURTS

AFFIDAVIT OF SERVICE

I, John B. Stewart, Attorney for the Plaintiff in the above-entitled action, being duly sworn, depose and say that the Defendant, Toyota Motor Sales USA, Inc., is known to have a usual place of business at 19001 South Western Avenue, Torrance, CA 90501, and that on April 28, 2015, service of process was made in accordance with Massachusetts General Laws, Chapter 223A, Section 6(a)(3), in that I caused a copy of the original Complaint, Civil Cover Sheet, and Summons to be mailed, postage prepaid, by certified Mail No. 7014 2120 0004 4643 6493, return receipt requested, to said Defendant, 19001 South Western Avenue, Torrance, CA 90501, at the address above-mentioned and that said Return Receipt is attached hereto.

*John B. Stewart*  
John B. Stewart (BBO #551180)  
MURPHY & MANITSAS, LLP  
20 Maple Street, Suite 301  
Springfield, MA. 01103  
Ph. (413) 733-4402 x105  
Fax (413) 733-4403

NOTARIZATION

COMMONWEALTH OF MASSACHUSETTS  
Hampden, SS.

On this 5th day of May, 2015, before me, the undersigned notary public, personally appeared John B. Stewart, proved to me through satisfactory identification, which was personal knowledge, to be the person who signed the preceding document in my presence, and who swore or affirmed to me that the contents of this document were truthful and accurate to the best of his knowledge and belief.

*[Handwritten signature]*  
Notary Public  
My commission expires:

TRACEY L. ADORETTI  
Notary Public  
Commonwealth of Massachusetts  
My Commission Expires  
June 18, 2015

▲ true copy.

Attest:

*[Signature]*  
Deputy Assistant Clerk

**MURPHY & MANITSAS, LLP**  
*ATTORNEYS AT LAW*  
20 MAPLE STREET, SUITE 301  
SPRINGFIELD, MA 01103  
Ph. (413) 733-4402  
Fax (413) 733-4403

Thomas F. Murphy, Esq. ♦\*  
James M. Manitsas, Esq. ♦\*  
John B. Stewart, Esq. ♦‡  
Frederica H. McCarthy, Esq. ♦♦‡

E-Mail: TheTrialer@aol.com  
♦ Admitted in Massachusetts  
\* Admitted in Connecticut  
♦ Admitted in New York  
‡ Of Counsel

April 20, 2015

President  
Toyota Motor Sales, USA  
19001 South Western Avenue  
Torrance, CA 90501

Re: Service of Summons and Complaint  
Anderson v. Toyota Motor Sales, USA, et al.  
Hampden (MA) Superior Court, CA #15-89

Dear Sir or Madam:

Please find enclosed a summons, complaint and statement of damages which I am serving upon you in accordance with Massachusetts General Laws ch. 223A, Sec.6. This is a new lawsuit. As stated in the summons, you have 20 days to answer the complaint. Thank you for your attention to this matter.

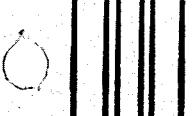
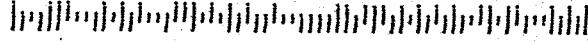
Yours very truly,

  
John B. Stewart

JBS/bh  
Encl.

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**  
**PARCEL NO. 7014 2120 0004 4643 6493**

<b>SENDER: COMPLETE THIS SECTION</b>		<b>COMPLETE THIS SECTION ON DELIVERY</b>	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>			
<p><b>1. Article Addressed to:</b></p> <p>President Toyota Motor Sales, USA 19001 South Western Avenue Torrance, CA 90501</p>		<p>Signature _____</p> <p><b>TOYOTA MOTOR SALES</b></p> <p><input type="checkbox"/> Agent      <input type="checkbox"/> Addressee</p> <p><b>B. Received by (Printed Name)</b> <b>C. Date of Delivery</b></p> <p>90501</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If Yes, enter delivery address below: <input type="checkbox"/> No</p> <p>APR 28</p> <p>TORRANCE, CA 90501</p> <p>USPS</p> <p><b>3. Service Type</b></p> <p><input checked="" type="checkbox"/> Certified Mail®    <input type="checkbox"/> Priority Mail Express™  <input type="checkbox"/> Registered®    <input type="checkbox"/> Return Receipt for Merchandise  <input type="checkbox"/> Insured Mail    <input type="checkbox"/> Collect on Delivery</p> <p><b>4. Restricted Delivery? (Extra Fee)</b> <input type="checkbox"/> Yes</p>	
<p><b>2. Article Number (Transfer from)</b> 2014 2120 0004 4643 6493</p>			
<p>PS Form 3811, July 2013   Domestic Return Receipt</p>			

<p>UNITED STATES POSTAL SERVICE</p> 		<p>First-Class Mail Postage &amp; Fees Paid USPS Permit No. G-10</p>
<p>• Sender: Please print your name, address, and ZIP+4® in this box*</p> <p>John B. Stewart Murphy &amp; Manitsas, LLP 20 Maple Street, Suite 301 Springfield, MA 01103</p>		
		

COMMONWEALTH OF MASSACHUSETTS

HAMPDEN, ss

SUPERIOR COURT  
DEPARTMENT OF THE TRIAL COURT  
CIVIL ACTION NO. 15-89

Michael E. Anderson, PLAINTIFF(S)

v.

SUMMONS

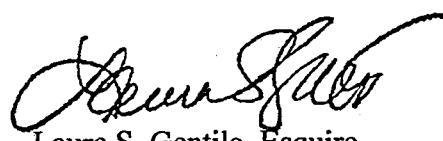
Toyota Motor Sales, USA, Inc., DEFENDANT(S)

To the above named defendant:

You are hereby summoned and required to serve upon John B. Stewart, plaintiff's attorney, whose address is 20 Maple St Springfield MA 01103, an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. You are also required to file your answer to the complaint in the office of the Clerk of this court at Springfield either before service upon the plaintiff's attorney or within a reasonable time thereafter.

Unless otherwise provided by rule 13(a), your answer must state as a counterclaim any claim which you may have against the plaintiff which arises out of the transaction or occurrence that is the subject matter of the plaintiff's claim or you will thereafter be barred from making such claim in any other action.

Witness, Judith Fabricant, Esq., at Springfield the 21st day of April in the year of our Lord two thousand fifteen.

  
Laura S. Gentile, Esquire  
CLERK OF COURTS

NOTES:

1. This summons is issued pursuant to Rule 4 of the Massachusetts Rules of Civil Procedure
2. When more than one defendant is involved, the names of all such defendants should appear in the caption. If a separate summons is used for each defendant, each should be addressed to the particular defendant.

A

## Commonwealth of Massachusetts

HAMPDEN, SS.

SUPERIOR COURT  
CIVIL ACTION NO. 15-89

MICHAEL E. ANDERSON, Plaintiff )  
v. )  
TOYOTA MOTOR CORPORATION, and )  
TOYOTA MOTOR SALES USA, INC., )  
Defendants )

HAMPDEN SUPERIOR COUNTY  
FILED

MAY 13 2015

*Debra S. Allen*  
CLERK OF COURTS

### PLAINTIFF'S MOTION TO ENLARGE THE TIME FOR SERVICE OF PROCESS

Now comes the Plaintiff and moves the Court for service of process upon the Defendant, TOYOTA MOTOR CORPORATION, which is a foreign corporation with a principal place of business at 1, Toyota-cho, Toyota City, Aichi Prefecture 471-8571, Japan.

As grounds, the Plaintiff has made service on Defendant, Toyota Motor Sales USA, Inc., but additional time is needed to comply with the Hague Convention to make service upon the Japanese manufacturer. As the Court is aware, this is a complicated, tedious and time consuming process. The Plaintiff is requesting an additional 90 days to serve the Defendant, Toyota Motor Corporation. The prosecution of this case should not be materially delayed as this case is a Track A - Products Liability claim and under the tracking order discovery will continue until February 2017.

WHEREFORE, the Plaintiff respectfully requests an additional 90 days to complete service upon the Defendant, Toyota Motor Corporation.

MICHAEL E. ANDERSON, Plaintiff

By John B. Stewart  
JOHN B. STEWART (BBO #551180)  
MURPHY & MANITSAS, LLP  
20 Maple Street, Suite 301  
Springfield, MA 01103  
Ph. (413) 733-4402 x 105  
Fax: 413-733-4403  
E-Mail: TheTrialer@aol.com

A true copy.

Attest:

*Veronica M. Allen*  
Deputy Assistant Clerk

5-14-15 Mailed.  
5-15-15 FAX T.J.

4

CERTIFICATE OF SERVICE

I hereby certify I have served the within motion upon each other party or counsel of record by mail on May 11, 2015.

*John B. Stewart*  
JOHN B. STEWART (BBO #551180)  
MURPHY & MANITSAS, LLP